

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

In re:

Keith R. Ellis

Debtor.

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HSBC Mortgage Corporation (USA),

Appellant,

CASE NUMBER: 11-10860

HON. VICTORIA A. ROBERTS

v.

Daniel M. McDermott,

Appellee.

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**ORDER**

This matter is before the Court on HSBC's Motion for Leave to Appeal an Order of the Bankruptcy Court allowing certain discovery against HSBC, (Doc. 1), and HSBC's Emergency Motion for Stay Pending Appeal, (Doc. 4).

On February 16, 2011, the Bankruptcy Court entered an Order allowing Bankruptcy Trustee Daniel M. McDermott to conduct a Bankruptcy Rule 2004 Examination of HSBC. Subsequently, HSBC filed a Notice of Appeal from the Order, and asked this Court for leave to appeal.

The Trustee responded to HSBC's Motion for Leave to Appeal, and contends that the Rule 2004 Order is not appealable because (1) it is not a final, appealable

order; (2) it is not appealable under the collateral-order doctrine; and (3) the criteria for a discretionary interlocutory appeal are not met. Thus, the Trustee maintains that relief may not be obtained in this Court.

The Court agrees with the arguments set forth by the Trustee. The Court is also aware of a recent order issued by Judge Julian Abele Cook, Jr. in a similar case, and agrees with Judge Cook's analysis. See *In re Gray*, 2011 WL 902733 (E.D. Mich. March 15, 2011).

The Order is not appealable under any theory advanced by HSBC. It is not a final, appealable order over which this Court has jurisdiction under 28 U.S.C. § 158(a)(1), and it is not appealable under the collateral-order doctrine. The Court understands that in some circumstances it may grant leave to appeal an interlocutory order under 28 U.S.C. § 158(a)(3). However, the Court does not agree that the conditions required for an interlocutory appeal are met in this case.

Accordingly, the Court declines to grant HSBC leave to appeal the Rule 2004 Order.

HSBC's Motion for Leave to Appeal is **DENIED**.

HSBC's Emergency Motion to Stay Pending Appeal and Ex Parte Motion to Expedite are **DENIED** as moot.

**IT IS ORDERED.**

S/Victoria A. Roberts  
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Victoria A. Roberts  
United States District Judge

Dated: March 30, 2011

The undersigned certifies that a copy of this document was served on the attorneys of record and Bankruptcy Court by electronic means or U.S. Mail on March 30, 2011.

s/Carol A. Pinegar \_\_\_\_\_  
Deputy Clerk